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Attorney for defendant

FILED
DISTRICT COURT OF GUAM
MAR 13 2006
MARY L.M. MORAN
CLERK OF COURT

DISTRICT COURT OF GUAM

UNITED STATES OF AMERICA,	(Criminal Case No. 05-00087
)	
Plaintiff,	(SENTENCING
)	MEMORANDUM
vs.	(
)	
McCARTHY OCAYA CARTER,	(
)	
Defendant.	(

18 U.S.C. § 3585(b)(1) provides, “A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences . . . as a result of the offense for which the sentence was imposed”

Paragraph 13 of the presentence report says that the time defendant has spent in official detention, as a result of the offense for which sentence is to be imposed, is more than 27 months. During the entire time of defendant’s

(Sentencing Memorandum)
Criminal Case No. 05-00087

official detention his behavior has been entirely satisfactory. (Letter from M.Q. Borja to Whom it May Concern of Mar. 10, 2006, hereto annexed.) 18 U.S.C. § 3624(b)(1) provides that a prisoner is entitled to a satisfactory-behavior credit of 54 days per year. Paragraph 91 of the presentence report says that the top of the applicable guideline range of imprisonment is 30 months. Thirty months is 2½ years; 2½ years times 54 days is 135 days; and 135 days is 4½ months. More than 27 months (the time defendant has spent in official detention) plus 4½ months (defendant's credit for satisfactory behavior) is more than 31½ months. Thirty-one and one-half months is 1½ months more than the top of the applicable guideline range.

Defendant respectfully requests that he be sentenced to time served.

Dated, Hagåtña, Guam,

March 10, 2006.

Respectfully submitted,


HOWARD TRAPP
Attorney for defendant

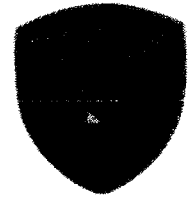


DEPARTMENT OF CORRECTIONS

Depattamenton Mangngurihi

P.O. Box 3236

Hagatna, Guam 96932



Felix P. Camacho
Governor

March 10, 2006

Kaleo S. Moylan
1st. Governor

To Whom It May Concern:

Federal Detainee McCarthy Carter has been confined at the Federal Detention Unit, Hagåtña Detention Facility for longer than two years. Since his confinement, he has not been noted to have encountered any negative behavior. Detainee Carter has been most respectful with all his encounters. He does volunteer to help out with utility problems within the facility.

Submitted as requested.

Robert D. Camacho
Director

Jose B. Palacios
Deputy Director

Francisco B. Crisostomo
Warden

Michael P. Quinata
Chief Parole Officer

Joseph T. Afaisen
Administrator DTSD

Luis M. Paulino
Administrative Services Officer

M.O. BORJA, Captain
HDF Commander



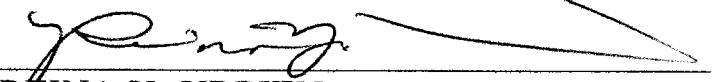
Tel. No.: 475-6298 / 473-7022 / 7025/7027
Fax. No.: 473-7024

DECLARATION OF SERVICE

I, Reina Y. Urbien, declare that I am an administrative assistant employed in the office of Howard Trapp, Esq., the attorney for defendant herein, and that I served the document to which this declaration is annexed on Marivic P. David, Esq., Assistant United States Attorney, the attorney for plaintiff herein, by leaving a copy at Office of the United States Attorney for Guam and the Northern Mariana Islands, Suite 500, Sirena Plaza, 108 Hernan Cortez Avenue, Hagåtña, Guam, her last known address, with a person in charge thereof, on March 13, 2006.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 13, 2006, at Hagåtña, Guam.


REINA Y. URBIEN

DECLARATION OF SERVICE

I, Reina Y. Urbien, declare that I am a secretary employed in the office of Howard Trapp Incorporated, Howard Trapp, Esq., the attorney for defendant herein, and that on March 13, 2006, I served the document to which this declaration is annexed on Maria C. Cruz, United States Probation Officer, the person charged with conducting the presentence investigation in this proceeding, by leaving a copy thereof at 2nd Floor, U.S. Courthouse, 520 West Soledad Avenue, Hagåtña, Guam, her last known address, with a person in charge thereof.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 13, 2006, at Hagåtña, Guam.


REINA Y. URBIEN